

Senate Bill No. 710

Passed the Senate August 11, 2016

Secretary of the Senate

Passed the Assembly June 30, 2016

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 10159.7 of the Business and Professions Code, relating to real estate licensees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 710, Galgiani. Real estate licensees: fictitious business names: team names.

The Real Estate Law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. That law requires advertising and solicitation materials using a fictitious business name or that contain a team name to display the responsible broker's identity, as provided. Existing law defines "responsible broker's identity" to mean a name and the associated license identification number under which the responsible broker is currently licensed and conducts business in general or is a substantial division of the real estate firm, as specified.

This bill would revise the definition of "responsible broker's identity" to mean the name or both the name and associated license identification number.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 10159.7 of the Business and Professions Code is amended to read:

10159.7. (a) For the purposes of this article, the following definitions shall apply:

(1) "Responsible broker's identity" means the name under which the responsible broker is currently licensed by the bureau and conducts business in general or is a substantial division of the real estate firm, or both the name and the associated license identification number. Responsible broker's identity does not include a fictitious business name obtained pursuant to paragraph

(2) of subdivision (a) of Section 10159.5 or the use of a team name pursuant to Section 10159.6.

(2) “Fictitious business name” means a professional identity or brand name under which activity requiring a real estate license is conducted and the use of which is subject to approval by the bureau pursuant to Section 10159.5.

(3) “Ownership of a fictitious business name” means the right to use, renew, and control the use of a fictitious business name obtained in accordance with Section 10159.5.

(4) “Responsible broker” means the broker responsible for the exercise of control and supervision of salespersons under Section 10159.2, or a licensee subject to discipline under subdivision (h) of Section 10177 for failure to supervise activity requiring a real estate license. The supervision of a salesperson required under this part or any other law is limited to regulatory compliance and consumer protection.

(5) “Team name” means a professional identity or brand name used by a salesperson, and one or more other real estate licensees, for the provision of real estate licensed services. Notwithstanding any other law, the use of a team name does not require that a separate license be issued for that name pursuant to Section 10159.5. A team name does not constitute a fictitious business name for purposes of this part or any other law or for purposes of filing a fictitious business name statement with an application as required by subdivision (a) of Section 10159.5 if all of the following apply:

(A) The name is used by two or more real estate licensees who work together to provide licensed real estate services, or who represent themselves to the public as being a part of a team, group, or association to provide those services.

(B) The name includes the surname of at least one of the licensee members of the team, group, or association in conjunction with the term “associates,” “group,” or “team.”

(C) The name does not include any term or terms, such as “real estate broker,” “real estate brokerage,” “broker,” or “brokerage” or any other term that would lead a member of the public to believe that the team is offering real estate brokerage services, that imply or suggest the existence of a real estate entity independent of a responsible broker.

(b) Nothing in this section changes a real estate broker's duties under this division to supervise a salesperson.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act corrects an inadvertent drafting error in Senate Bill 146 of the 2015–16 Regular Session that requires the listing of a company name and responsible broker's license number on all "team" advertising, when the intent of that legislation was to require one or the other, but not both. In order to ensure that the law regarding advertising is not overly burdensome, it is necessary that this act take effect immediately.

Approved _____, 2016

Governor